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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Granite Telecommunications, LLC (U6842C) to Expand its Certificate of Public Convenience and Necessity to Include Additional Service Territories.

Application 16-01-008  
(Filed January 21, 2016)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**Summary**

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules),<sup>1</sup> this Scoping Memo and Ruling (Scoping Memo) sets forth the procedural schedule and issues to be addressed, changes the preliminary determination regarding the need for hearings, designates the principal hearing officer, and addresses other matters needed to facilitate the efficient administration of this proceeding.

**1. Background**

On January 21, 2016, Granite Telecommunications, LLC (Granite) filed an application with the California Public Utilities Commission (Commission) to expand its Certificate of Public Convenience and Necessity to provide telecommunication services in the Service Territories of SureWest Telephone (SureWest), and Citizens Telecommunications Company of California, Inc.

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at:

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M089/K380/89380172.PDF>.

d/b/a Frontier Communications of California (Frontier) pursuant to the Public Utilities Code Section 1001.<sup>2</sup>

On February 11, 2016, the California Public Utilities Commission's Safety and Enforcement Division (SED) filed a protest to Granite's application (Protest) alleging that Granite: (1) failed to provide required financial information in its application; and (2) failed to disclose prior adverse regulatory actions by the Federal Communications Commission against Granite in violation of Rule 1.1 of the Commission's Rules of Practice and Procedure. SED requests that the Commission either impose penalties and sanctions on Granite, or consider denying the application for the alleged violations.

On March 3, 2016, the Administrative Law Judge (ALJ) issued a ruling requesting additional information from Granite regarding its application, and setting a Prehearing Conference (PHC) for March 17, 2016. On March 11, 2016, the parties informed the ALJ that Granite was filing an amended application and that holding the PHC on March 17, 2016 would be premature. On March 14, 2016, the ALJ cancelled the March 17, 2016 PHC due to the pending amendment to the application. On March 22, 2016, Granite filed an amended application and on April 25, 2016, the ALJ rescheduled the PHC for May 25, 2016.

On May 25, 2016, a PHC was held to discuss and establish the permanent service list for this proceeding, determine the scope of the proceeding and issues to be included in the scoping memo, *i.e.*, categorization of this proceeding and need for hearing, schedule for the proceeding and other procedural matters relevant to this proceeding, including the voluntary use of the Commission's free

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<sup>2</sup> All Statutory references are to the Public Utilities Code unless otherwise indicated.

Alternative Dispute Resolution service in the resolution of this proceeding by the parties. This Scoping Memo is issued addressing the following matters.

## **2. Issues to Be Addressed**

At the May 25, 2016 PHC, the attorneys for Granite and SED presented arguments regarding whether Granite's March 22, 2016 Amended Application adequately cured all defects that were identified in SED's February 11, 2016 protest, and thus making those issues raised in SED's protest moot and/or no longer relevant such that a hearing would be unnecessary in this proceeding as requested by SED. After evaluating each side's positions and arguments, at this time, the following issues are found to be within the scope of this proceeding and as such, an evidentiary hearing may be required in this proceeding.

Accordingly, based on the amended application, SED's protest to the original application, and the discussion with the parties at the May 25, 2016 PHC, the following issues are found to be within the scope of this proceeding:

- a) Whether Granite violated Rule 1.1 by failing to disclose in its amended application prior adverse regulatory actions against it;
- b) Whether the Commission should impose a penalty against Granite for alleged failure to disclose prior adverse regulatory actions against; and
- c) Whether Granite is fit to operate as a telecommunications service provider in California and thus meets the requirements to be granted an expansion of its Certificate of Public Convenience and Necessity to provide resold interexchange services as requested in A.16-01-008.

## **3. Schedule and Notices**

Pursuant to the parties' PHC statement, and discussions between each other and with the ALJ at the PHC, the following procedural schedule is set and affirmed. As necessary, the assigned Commissioner or ALJ may modify the

schedule. Further, the evidentiary hearing scheduled herein is a placeholder, should a hearing become necessary in this proceeding.<sup>3</sup>

<b>Events</b>	<b>Dates</b>
Prehearing Conference	May 25, 2016
Deadline for Discovery/Data Requests	June 24, 2016
Concurrent Opening Testimony	July 11, 2016
Concurrent Reply Testimony	July 25, 2016
Evidentiary Hearing (If Required)	August 16, 2016 9:30 a.m. <u>Location:</u> Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Concurrent Opening Briefs	August 31, 2016
Concurrent Reply Briefs	September 9, 2016
Proposed Decision Issued	December 2016
Commission Meeting/Decision	February 2017

Consistent with Pub. Util. Code § 1701.2(d), the Commission anticipates that this proceeding will be completed within 18 months of the date of this scoping memo. In addition, while unlikely, if there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be

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<sup>3</sup> As of today, March 1, 2016, the determination is that evidentiary hearings are not required in this proceeding.

present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

#### **4. Categorization and Need for Hearing**

The Commission preliminarily categorized this application as ratesetting as defined in Rule 1.3(e) and determined that this proceeding would not require evidentiary hearings. However, due to SED's protest filed in this proceeding and the issues that have been raised by SED, SED believes, and has requested, that evidentiary hearings be scheduled in this proceeding. Accordingly, while the Commission's preliminary categorization of this proceeding as ratesetting is confirmed, the Commission's original determination that an evidentiary hearing is not required is being changed. **This proceeding may require evidentiary hearings.**

#### **5. Principal Hearing Officer**

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules), Administrative Law Judge Adeniyi A. Ayoade is designated as the Presiding Officer.

#### **6. Ex Parte Rules**

*Ex parte* communications are governed by the Public Utilities Code and Commission Rules. In general, *ex parte* communications are prohibited, with limited exceptions subject to reporting requirements. (See § 1701.3(c); Rules 8.1 through 8.6.) In addition, because this ratesetting proceeding involves issues that may result in the assessment of a penalty against the applicant, this ruling imposes a ban on *ex parte* communications with decision makers, even though this proceeding remains categorized as a ratesetting proceeding.

**7. Service List**

A permanent service list was discussed and established at the PHC. The service list is on the Commission's web page. Parties are responsible for ensuring that the correct information is contained on the service list, and notifying the Commission's Process Office and other parties of corrections or ministerial changes. Substantive changes (*e.g.*, to be added or removed as a party) must be made by motion or at hearing.

**8. Filing and Service of Documents**

Parties shall file and serve all pleadings as set forth in Article 1 of the Rules. Testimony shall only be served, as set forth in Rule 1.7.

**9. Commission's Voluntary Alternative Dispute Resolution (ADR) Program**

The Parties may voluntarily participate in ADR on any date convenient for them while giving full consideration to the dates scheduled herein. If the parties do chose to participate in ADR, they must contact the ADR coordinator to schedule ADR/Settlement Conference(s) as needed. In addition, if the parties require more time in order to participate in ADR, they may jointly request such additional time from the Commission.

## **10. Settlement or Stipulation Before Hearing**

If the parties reach a settlement or stipulation that resolves any issue in this proceeding before the hearing, the parties shall immediately notify the assigned ALJ, and provide notice of such settlement on the service list as soon as possible but no later than the day before the scheduled hearing.

### **IT IS RULED that:**

1. The Commission's preliminary determination categorizing this proceeding as ratesetting is affirmed. The ruling as to categorization is appealable pursuant to Rule 7.6 of the Commission's Rules of Practice and Procedure.
2. The Commission's preliminary determination finding that evidentiary hearings are not required is changed to reflect that this proceeding may require evidentiary hearings.
3. The issues in this proceeding as set forth in Section 2 of this Scoping Memo are confirmed and shall remain the only issues to be addressed in this proceeding unless subsequently modified by the assigned Commissioner or the Administrative Law Judge.
4. The schedule for this proceeding as set forth in Section 3 of this Scoping Memo is confirmed and shall remain in effect unless subsequently modified by the assigned Commissioner or the Administrative Law Judge.
5. The service list established at the prehearing conference will be the permanent service list for this proceeding.
6. The parties shall file and serve all pleadings, and serve their respective testimony pursuant to Article 1 of the Commission's Rules of Practice and procedure.
7. *Ex parte* communications are prohibited in this proceeding.

8. Pursuant to Rule 13.2, Administrative Law Judge Adeniyi A. Ayoade is designated as the presiding officer.

Dated June 9, 2016, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph  
Assigned Commissioner